

# REGULAR COUNCIL MEETING

## A G E N D A

TOWN OF CHINCOTEAGUE

May 07, 2007 - 7:30 P.M. - Council Chambers - Town Hall

CALL TO ORDER

INVOCATION BY COUNCILMAN HOWARD

PLEDGE OF ALLEGIANCE

OPEN FORUM / PUBLIC PARTICIPATION

AGENDA ADDITIONS/DELETIONS AND ADOPTION:

---

1. Consider Adoption of the Minutes
  - Regular Council Meeting of April 2, 2007 (Page 2 of 20)
  - Regular Council Meeting of April 19, 2007 (Page 6 of 20)
2. The Budget & Personnel Committee Report of March 20, 2007 (Councilwoman Conklin) (Page 11 of 20)
3. Accomack County Board of Supervisors Update (Honorable Wanda Thornton)
4. Town Dock Lease (Page 13 of 20)
5. Mayor & Council Announcements or Comments  
(Note: Roberts Rules do not allow for discussion under comment period)

ADJOURN:

**MINUTES OF THE APRIL 2, 2007  
CHINCOTEAGUE TOWN COUNCIL MEETING**

**Council Members Present:**

John H. Tarr, Mayor  
Anita Speidel, Vice Mayor  
Nancy B. Conklin, Councilwoman  
Terry Howard, Councilman  
Ellen W. Richardson, Councilwoman  
E. David Ross, Councilman  
Glenn B. Wolfe, Councilman

***Call to Order***

Mayor Tarr called the meeting to order at 7:34 p.m.

***Invocation***

Councilman Ross offered the invocation.

***Pledge of Allegiance***

Mayor Tarr led the Pledge of Allegiance.

***Open Forum/Public Participation.***

Mr. Ray Rosenberger stated that he supports the idea of hiring additional EMS personnel. He also commented that he thought the initial grant for the Broadband project was going to be sufficient to cover the costs of the project and that he was disappointed that the A-NPDC was requesting additional funding for completion of the project.

***Agenda Additions/Deletions and Adoption***

Councilman Howard motioned, seconded by Councilwoman Richardson, to adopt the agenda as amended. The motion was unanimously approved.

***1. Approval of the Minutes of the March 5 and 15, 2007 Council Meetings.***

Councilman Howard noted that in the *Mayor and Council Announcements or Comments* section of the March 5 minutes, *Vice Mayor Speidel's name needed to be added to those Council members in favor of* amending the agenda to include the discussion of allowing Mayor Tarr to draft a letter of Council's comments regarding the proposed parking fees on Assateague and that *Councilman Ross's name needed to be deleted from those in favor of the motion*. Councilman Wolfe motioned, seconded by Vice Mayor Speidel, to approve the minutes as amended. The motion was unanimously approved.

## **2. *Accomack-Northampton Planning District Commission (A-NPDC) Request for Broadband Funds.***

Mrs. Barbara Schwenk of the A-NPDC requested that the Town contribute \$4,368 to offset A-NPDC administrative costs for the Broadband project. She explained that half of the projected total deficit of \$26,206 will be paid by the A-NPDC and the other half will be divided equally between Accomack County, and the Towns of Chincoteague and Exmore.

Council voiced concerns regarding fairness of the division of funds requested by the A-NPDC between the three localities mentioned. Mrs. Schwenk responded that she will discuss the Town's concerns with the A-NPDC.

## **3. *Chincoteague Recreation and Convention Center Authority Report.***

Councilwoman Conklin reported on the Center's events for February and March. [The minutes for these two meetings were not prepared for approval at this meeting.]

## **4. *Recreation and Community Enhancement Committee Report.***

Vice Mayor Speidel reported on the March 8, 2007 meeting. Councilman Howard motioned, seconded by Councilwoman Richardson, to approve the minutes as presented. The motion was unanimously approved.

## **5. *Public Works Committee Report.***

Councilman Wolffe reported on the March 13, 2007 meeting. Councilwoman Conklin motioned, seconded by Vice Mayor Speidel, to approve the minutes as presented. The motion was unanimously approved.

## **6. *Harbor Committee Report.***

Councilman Howard reported on the March 14, 2007 meeting. Councilman Ross noted that he did not attend the meeting as stated in the minutes. Councilman Wolffe motioned, seconded by Vice Mayor Speidel, to approve the minutes as amended. The motion was unanimously approved.

- Item 2 – Leasing Challenges – Councilman Howard read the proposed policy which essentially states that the lessee of a slip must also be the primary operator of the boat that is docked in the slip. It was the consensus of Council to send the proposed policy to Town Attorney Poulson to review and correct the language.

## **7. *Budget and Personnel Committee Report.***

Councilwoman Conklin reported on the March 20, 2007 meeting. Councilman Wolffe motioned, seconded by Councilman Howard, to approve the minutes as presented. The motion was unanimously approved.

- Request for Additional Staffing of Emergency Medical Personnel – Councilwoman Conklin explained the need for the additional personnel and the possible ways to fund the

positions. Councilman Wolffe motioned, seconded by Councilman Ross, to send the matter to the Budget and Personnel Committee for review. The motion was unanimously approved.

- New Position Description for the Public Works Department – Councilwoman Richardson motioned, seconded by Vice Mayor Speidel, to approve the Waterworks Trainee Position Description for the Public Works Department. The motion was unanimously approved.
- New Position Description for the Police Department – Councilman Wolffe motioned, seconded by Councilwoman Richardson, to approve the Office Assistant/Telecommunicator Position Description for the Police Department. The motion was unanimously approved.

### **8. *Deed of Vacation of Property Line – Gene Wayne Taylor.***

Mayor Tarr opened the public hearing regarding vacation of the property line between Lots 10 and 11 of the Pine Ridge Development. After hearing no public comment, Mayor Tarr closed the public hearing.

Councilman Wolffe motioned, seconded by Councilwoman Richardson, to adopt the following ordinance for the deed of vacation of a property line. The motion was unanimously approved.

Tax Map Number 030A5-2400-00010-00  
030A5-2400-00011-00

THIS DEED OF VACATION is made this 2<sup>nd</sup> day of April, 2007 by Gene Wayne Taylor, party of the first part, to be referred to as “Grantor” and “Grantee” for indexing purposes.

The Grantor hereby agrees and requests the vacation of a certain plat of survey situated in the Town of Chincoteague entitled “Pine Ridge Development, Property of Mrs. Josephine Anne Shelley Located on Chincoteague Island, Accomack County, Virginia” dated August 30, 1952 made by J. B. Gibbs, C.S., to show Lots 2,6,7,10,11,38, 46,47,53,53,54,58,59 and 62, said plat being recorded in the Clerk’s Office of the Circuit Court of Accomack County, Virginia in Plat Book 8, page 85, reference said to plat being hereby made for a more particular description of the herein conveyed property, and in which subdivision the property line dividing Lot 10 and Lot 11 of the “Pine Ridge Development, Property of Mrs. Josephine Anne Shelley Located on Chincoteague Island, Accomack County, Virginia” be vacated.

**WHEREAS**, the basis of said vacation is at the request of the owner of said lots for the purpose of construction of a single family dwelling.

### **NOW, THEREFORE BE IT ORDAINED:**

1. That the property line between Lot 10 and Lot 11 of the entitled “Pine Ridge Development, Property of Mrs. Josephine Anne Shelley Located on Chincoteague Island, Accomack County, Virginia” dated August 30, 1952

made by J. B. Gibbs, C.S., to show Lots 2,6,7,10,11,38,46,47,53,53,54, 58,59 and 62, said plat being recorded in the Clerk's Office of the Circuit Court of Accomack County, Virginia in Plat Book 8, page 85 be vacated.

2. That a certified copy of the vacation be recorded in the Clerk's Office of the Circuit Court of Accomack County, Virginia.

## **9. Mayor and Council Announcements or Comments.**

- Councilman Ross asked if there will be a celebration commemorating the 100<sup>th</sup> year of the Town's establishment. Mayor Tarr responded that the matter will be researched.
- Councilwoman Richardson thanked Public Works Director Cosby and his department for having the trees limbs that were in the right-of-way cut down.
- Mayor Tarr commented that the local radio station, 96.5 WCTG, has considered relocating to Princess Anne, Maryland. He stated that he would like to see the station keep a local office and that he would like to talk to the station owner regarding the matter.

## **Adjournment of Meeting**

Mayor Tarr announced that the next meeting will be on April 19, 2007 at 7:30 pm. Councilman Howard motioned, seconded by Councilwoman Richardson, to adjourn the meeting. The motion was unanimously approved.

---

Mayor

---

Town Manager

**MINUTES OF THE APRIL 19, 2007  
CHINCOTEAGUE TOWN COUNCIL MEETING**

**Council Members Present:**

John H. Tarr, Mayor  
Nancy B. Conklin, Councilwoman  
Terry Howard, Councilman  
Ellen W. Richardson, Councilwoman  
E. David Ross, Councilman  
Glenn B. Wolfe, Councilman

**Council Members Absent:**

Anita Speidel, Vice Mayor

***Call to Order***

Mayor Tarr called the meeting to order at 7:30 p.m.

***Invocation***

Councilman Howard offered the invocation.

***Pledge of Allegiance***

Mayor Tarr led the Pledge of Allegiance.

***Open Forum/Public Participation***

- Master Reid Thornton, Miss Jessica Hegeman and Miss Lauren Cherrix stated that they would like to start a newspaper on the Island for children their age. They added that they are asking for sponsors to help with the startup costs and also that advertisements will be sold to cover the cost of paper and ink. The children informed Council that proceeds from the newspaper will go toward the Chincoteague Library expansion. Mayor Tarr and Council commended the children on their idea and supported them completely.
- Mrs. Sandy Bowden of P.A.S.S.S. requested a donation from the Town for the annual After-Prom Party. Councilman Howard commended the organization for its efforts toward keeping our children safe after the prom. Mayor Tarr thanked Mrs. Bowden and stated that her request will be considered.

***Agenda Additions/Deletions and Adoption***

Councilwoman Conklin motioned, seconded by Councilwoman Richardson, to adopt the agenda as presented. The motion was unanimously approved.

***1. Resolution – Spring Clean-up, Paint-up and Fix-up Week.***

Councilman Howard motioned, seconded by Councilwoman Richardson, to adopt the following resolution for Spring Clean-up Week. The motion was unanimously approved.

**RESOLUTION**

WHEREAS, we are fortunate to live in a Town so abundantly blessed with natural assets and we have a continuing responsibility for preserving our environment by keeping it clean, healthy and beautiful; and

WHEREAS, the Annual Seafood Festival celebration, a period set aside to honor the heritage of the Town, will be celebrated on May 2, 2007; and

WHEREAS, during this celebration, we have the opportunity to demonstrate to ourselves, our neighbors and our visitors our commitment to a clean a beautiful town.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF CHINCOTEAGUE, IN COUNCIL MET:

1. That the week of April 28 – May 6, 2007 is designated as SPRING CLEAN-UP, PAINT-UP AND FIX-UP WEEK in the Town of Chincoteague.
2. That all organized and individual segments of our population participate in this noble effort by developing and carrying out imaginative clean-up, paint-up and fix-up projects which will serve to enhance, restore or maintain the beauty of all properties in our Island community.
3. All Spring Clean-up debris should be placed for pickup during the week of April 30 – May 7, 2007 so that our Town of Chincoteague will exemplify cleanliness and beauty during the Annual Seafood festival celebration and to kick off the Tourist Season.

## **2. Ordinance Committee Report.**

Councilman Ross reported on the March 28, 2007 meeting. Councilman Wolffe motioned, seconded by Councilwoman Conklin to approve the minutes. The motion was unanimously approved.

- Adoption of the Proposed Revised Ordinance: Chapter 62, Article II, Division 2, Rates – Councilman Ross explained that the changes in the ordinance would simplify the budget process each year by eliminating the step of changing the ordinance each year if the fees changed during the budget process.

Councilman Wolffe motioned, seconded by Councilman Howard, to adopt the following amendment to the Ordinance: Chapter 62, Article II, Division 2, Rates. The motion was unanimously approved.

### **DIVISION 2. RATES, CHARGES AND BILLING**

#### **Sec. 62-56. Rates.**

- (a) A water rate schedule shall be established and adopted each year by majority vote of the council.  
*(Amended 04/19/07)*
- (b) A minimum rate applies to all accounts after the minimum allowed usage

and an additional dollar amount is applied per 1000 gallons.

*(Amended 04/02/06, 04/19/07)*

(c) Water rates shall not be applied to connections for fire suppression systems described in section 62-57, except when water provided through such connections has been used for other than fire suppression. In such wrongful use, penalties described under section 62-27 shall apply.

(d) Water rates shall not be applied to churches and certain other nonprofit organizations except in cases where water usage exceeds forty thousand (40,000) gallons per quarter. In such cases, the church or nonprofit organization shall be charged at the commercial rate for the water used in excess of forty thousand (40,000) gallons. (Code 1977, § 15-1-1; Ord. of 4-5-1999, § 15-1-1)

**Sec. 62-57. Connection fees and availability fees.**

(a) New connections to the water system shall be charged at the rate established by the town council plus all additional related costs incurred by the town. *(Amended 03/16/06, 04/19/07)*

(b) The cost of service connections which are made to the system to provide for fire suppression systems shall be determined on a case-by-case basis as dictated by the requirements of individual fire suppression systems. Connection and meter sizes for fire suppression systems shall be determined by the size of the suppression system. Connections for fire suppression systems shall be made only by the town.

(c) Although water usage rates are not applied to churches and certain other nonprofit organizations, service connection fees and availability fees shall be charged. (Code 1977, § 15-1-2; Ord. of 4-5-1999, § 15-1-2) *(Amended 04/20/06)*

(d) An availability fee as established by the town council shall be charged and the amount shall be collected prior to the installation of the meter. *(Amended 04/20/06, 04/19/07)*

(e) Condominiums are to be charged an availability fee as established by the town council per living unit but supplied by a master meter with the minimum billing based on the size of the meter. *(Amended 04/20/06)*

**Sec. 62-58. Billing and other charges.**

(a) All water bills for residences, hotels, motels, rooming houses, cottages, trailer parks and all rental dwellings or rental property shall be charged to the property owner and not to the tenant.

(b) Water meters shall be read quarterly, and water bills shall be delinquent 30 days after the end of the quarter. A customer shall receive a second notice granting ten



days to either pay the delinquent bill or to appear before the town manager to present reasons why service should not be terminated. If the town manager makes the decision to terminate service, the customer may appeal such decision to the public works committee of the town council by filing the appeal, in writing, at least 24 hours prior to the date of termination. If such appeal is filed, service will not be terminated until after a hearing and decision by the public works committee. No service shall be reconnected without payment of all delinquent charges plus a reconnection charge as established by the town council. Services shall only be reconnected during regular town business hours between 8:00 a.m. and 5:00 p.m., with such business hours occurring from Monday through Friday, except on certain days observed as holidays by the town.

***(Amended 04/19/07)***

(c) Any person voluntarily disconnecting service, other than seasonal, shall be charged a fee as established by the town council for each reconnection. Reconnections shall be made only during regular business hours described in subsection (b) of this section.

***(Amended 04/19/07)***

(d) Any service disconnected on a seasonal basis shall be billed at the minimum quarterly rate or at an amount commensurate to the usage, during the period of disconnection.

(e) A change of ownership fee as established by the town council shall be charged to a water account transferred due to such a change.

***(Amended 04/19/07)***

(Code 1977, § 15-1-3; Ord. of 4-5-1999, § 15-1-3)

### **Sec. 62-59. Water bill adjustments.**

(a) *Adjustments to correct inaccurate readings.* Adjustments to water bills to correct inaccurate readings shall be made in accordance with the following:

(1) Adjustments to water bills may be applied by the town to correct inaccurate reading of meters or incorrect readings caused by faulty meters. During the reading cycle, the town will automatically check anomalous readings to ensure accuracy.

(2) If a property owner wishes to contest the accuracy of a meter reading and subsequent water bill, he may request that the meter be checked or tested to verify the accuracy of the reading or the meter. If, after checking or testing the meter, the reading is found to be correct, the account will be charged a fee as established by the town council. If the meter or reading is found to be faulty or incorrect, the water bill will be adjusted accordingly.

### **3. Public Works Committee Report.**

Councilman Wolffe reported on the April 10, 2007 meeting. Councilman Howard motioned, seconded by Councilwoman Conklin to approve the minutes. The motion was unanimously approved.

#### **4. Recreation and Community Enhancement Committee Report.**

Town Manager Ritter reported on the April 12, 2007 meeting. Councilman Wolffe motioned, seconded by Councilwoman Richardson to approve the minutes. The motion was unanimously approved.

#### **5. Harbor Committee Report.**

Councilman Howard reported on the April 11, 2007 meeting. Councilman Wolffe motioned, seconded by Councilwoman Conklin to approve the minutes. The motion was unanimously approved.

- Proposed New Harbor Policy – Councilman Wolffe motioned, seconded by Councilwoman Conklin, to approve the following new Harbor Policy. The motion was unanimously approved.

##### **HARBOR POLICY**

Any slip holder who leases a boat shall be the primary operator of such leased boat, or if not the operator, the lessee of such leased boat shall regularly be on board during the course of such operation. “Regularly” shall mean substantially at all times, but with exceptions for the purposes of maintenance or repairs. Violation of this provision shall be deemed to be a material non-compliance with the lease and a ground for cancellation thereof.

#### **6. Mayor and Council Announcements or Concerns.**

- Mayor Tarr stated that a letter should be sent to the delinquent slip holder stating that the slip holder is losing the slip due to non-payment.
- Councilman Ross asked Police Chief Lewis to report on the status of the vandalism to the bathrooms at Veterans Memorial Park as well as the incident regarding the traffic signals on Maddox Boulevard during the recent power outage.
- Councilwoman Richardson commented that the plaque at the Robert N. Reed, Sr. Downtown Park looked very nice. She also requested that the method by which Council’s Vice Mayor is appointed be reviewed and considered prior to the next Council election. Mayor Tarr responded that it is established in the Town’s Charter that Council appoints the Vice Mayor and that that has not changed. He added that in the past, it has been customary for the Councilperson elected into office with the highest number of votes to be appointed Vice Mayor.

#### **Adjournment of Meeting**

Mayor Tarr announced that the next meeting will be on May 7, 2007 at 7:30 pm. Councilwoman Richardson motioned, seconded by Councilman Howard, to adjourn the meeting. The motion was unanimously approved.

---

Mayor

---

Town Manager

**MINUTES OF THE APRIL 17, 2007  
BUDGET AND PERSONNEL COMMITTEE MEETING**

Members Present

Nancy B. Conklin, Chairwoman  
Glenn B. Wolffe  
Anita W. Speidel

1. Call to Order.

Chairwoman Conklin called the meeting to order at 5:30 p.m.

2. Public Participation.

There were no public comments.

3. Agenda Adoption.

Councilman Wolffe moved, seconded by Vice Mayor Speidel to adopt the agenda as corrected. The motion was unanimously approved.

4. Consider Additional Funding for the Chincoteague Recreation and Convention Center Authority.

Chairwoman Conklin explained that the Authority has not received any additional funding from the Town since its formation and the current level of funding is not meeting the expenses.

Town Manager Ritter stated that in addition to the transient occupancy and meals tax funding the Town also supports the Authority with lawn care, setup and take down of chairs and tables, and typing of minutes for Authority meetings.

Chairwoman Conklin explained that the center supports many free events and that over the past three years there as been 193 free events. The expense to the center for these free events has been \$19,300.00. The center has also had 41 community discounted events over the same three year period at a cost of \$14,350.00. The cost of electricity has significantly increased. One ongoing problem is the costs for repairs and maintenance of the heating and air conditioning system. Over the past two years the cost for the system has been \$31,479.00. The system that was installed in the building does not meet the needs. The Authority is now requesting additional funding from the Town in a larger percentage of the transient occupancy tax.

Councilman Wolffe asked if there was any money left in the LGIP account. Chairwoman Conklin replied there was approximately \$25,000 in the account. The Authority still has a bond with an outstanding balance of approximately \$50,000.

Councilman Wolffe asked how the center could increase its revenue. He realizes that currently the center has two revenue sources, one be the Town and the other from events.

Councilman Wolffe asked if there was communications between the center and the YMCA. He feels this could be additional revenue for the center. Chairwoman Conklin answered yes.

Councilman Wolffe asked what the Authority was looking for as an increase. Chairwoman Conklin stated the Authority had said 30% of the transient occupancy tax which represents a 5% increase. Chairwoman Conklin stated that she felt 5% was too much because of the shortfalls in the Town's budget and would be willing to ask for only 3%. Chairwoman Conklin stated that should equate to approximately \$9810.00 additional transient occupancy tax. If the Authority had approximately \$10,000.00 more each year they could manage.

Councilman Wolffe asked Chairwoman Conklin if the full kitchen will substantially increase the use of the center. She was unsure, because the patrons have been satisfied with the catering services. Councilman Wolffe said the reason he asked this was in hopes that the Town could make an additional funding increase of \$10,000 for one year because of the Town's own shortfalls and in hopes that the new kitchen would increase revenues for the center.

Chairwoman Conklin asked that the increase funding for the Authority be included in the draft FY'08 budget for discussion at the budget workshops.

The Committee discussed the matter further and the shortfalls facing the Town. The Committee asked to see a more detailed expense report along with projections for FY'08 from the Authority.

It was the consensus of the Committee to include the increase funding for the Authority in the draft FY'08 budget for discussion at the budget workshops.

##### 5. Adjournment.

Vice Mayor Speidel moved, seconded by Councilman Wolffe to adjourn the meeting. The motion was unanimously approved.

**AN ORDINANCE AUTHORIZING THE LEASE OF A PORTION OF THE  
TOWN DOCK OF THE TOWN OF CHINCOTEAGUE IN CONJUNCTION  
WITH THE OPERATION OF A TOUR VESSEL(S) AND THE SOLICITATION  
OF BIDS FOR SUCH LEASE**

BE IT ORDAINED AS FOLLOWS:

1. That the Council solicit bids for the lease of the Town Dock in conjunction with the operation of a tour vessel(s) for the 2007 and 2008 seasons in the form and on the terms and conditions contained in the hereinafter described Lease.
2. That the form, terms and conditions of said Lease shall be as follows:

THIS AGREEMENT OF LEASE, made this \_\_\_\_ day of May, 2007 by and between **THE TOWN OF CHINCOTEAGUE, INCORPORATED**, Lessor, party of the first part; and \_\_\_\_\_, Lessee, party of the second part.

WITNESSETH: That the said Lessor, for and in consideration of the mutual covenants hereinafter mentioned and be kept and performed by Lessee, does hereby demise and lease to Lessee the hereinafter described real estate, subject to the terms and conditions herein contained.

**DESCRIPTION OF REAL ESTATE**

Seventy feet (70') waterfront dock frontage of the "Town Dock", on Chincoteague Channel, Chincoteague, Virginia, as designated by white lines. The demised area does not include adjacent walkways or parking areas.

**TERMS**

The term of this Lease is for two (2) periods of six (6) months each, the first beginning on May \_\_\_\_, 2007 and terminating on October 31, 2007, with a second term beginning May 1, 2008 and terminating on October 31, 2008, without notice. This lease shall not automatically renew for any successive term.

**RENT**

The total rent for said terms shall be \_\_\_\_\_ (\$) \_\_\_\_\_ each, in advance, without demand, on the first day of each term, and payable to Lessor at 6150 Community Drive, Chincoteague, Virginia 23336. Lessee will pay a late charge of \$100.00 per day for any rental installment made after the first day of any rent.

### **USE OF DOCK FRONTAGE**

Said dock frontage shall be used solely as an embarkation and debarkation area for Lessee's tour vessel(s) as authorized herein, and Lessee shall restrict its use for such purposes and shall not use or permit the use of the property for any other purpose without the express written consent of Lessor.

Lessee's vessels shall only utilize said dock frontage between the hours of 3:30 pm and sunset each day and no vessel(s) shall be moored at said frontage for any cumulative times in excess of two (2) hours daily for such permitted purposes. Lessor, by its Town Manager, may permit additional times for specific trips upon reasonable advance written request by the Lessee. No other portion of the Town Dock shall be utilized for the Lessee's purposes.

Lessee shall not utilize any vessel in excess of fifty feet (50') in length in its operations. Any such vessel utilized by lessee shall be in compliance with all state and federal laws and regulations at all times and under the control, while utilizing said dock frontage, of a properly licensed master.

Lessee may post up to two (2) signs along such dock frontage prohibiting the mooring or other use by any other vessel during Lessee's period of daily operations. Lessee may also post during the period of any such term a sign not exceeding 3 feet by 3 feet advertising the business and other pertinent information including fees and schedule.

### **PARKING**

Lessee's invitees and guests may utilize the public parking area of the Town Dock, and notwithstanding prohibitions to the contrary, vehicles may be parked in areas otherwise set aside for vehicles and trailers to maximize parking spaces during the hours of operations. If sufficient parking spaces are not available for existing and primary permissive uses attendant to the Town Dock and Lessee's invitees and guests, Lessee shall direct such invitees and guest to other public parking areas in the general vicinity. In the event that the parking of such invitees and guests creates unnecessary congestion and/or unreasonable interference with the other existing and primary uses of the Town Dock, the Town Manager shall have the authority to direct that all parking by the Lessee's invitees and guests be at other designated public parking areas.

### **REPAIRS AND MAINTENANCE**

Lessee shall maintain the herein demised premises in a clean, orderly, and safe condition and deliver up the premises at the expiration or termination of this Lease in as good condition as received. Failure of Lessee to maintain the property in a clean, orderly, and/or safe condition shall constitute a default by the Lessee.

Lessor and Lessee shall make a joint inspection of said demised premises at the inception of this Lease and at the beginning of each annual Lease period, with a memorandum prepared and initialed by Lessor and Lessee detailing the condition of said premises. At the termination of each annual Lease period, Lessor and Lessee shall, within five (5) days thereof, make a further joint inspection to determine the condition of said premises.

### **DAMAGE TO PROPERTY**

Lessee is solely responsible for all damages to the demised property caused by its operations, including acts or omissions of its agents, employees or invitees or guests, inclusive of, but not limited to, broken dolphins, moorings, or piles; punctured, distorted or otherwise damaged bulkheads or component parts; any damage to adjacent boardwalks, sidewalks, or parking areas; and the release of any hazardous substances into Chincoteague Channel. The Lessee shall cause such repairs to be timely made, including the clean up of any fuel spills or other hazardous substances, and the failure to make timely required repairs or clean up shall constitute a default by Lessee.

### **INSURANCE**

Lessee shall maintain during the terms of this Lease liability insurance with a carrier licensed in the Commonwealth of Virginia, with limits of \$500,000 for personal injury and \$250,000 for property damage liability, with the Town to be shown as an additional insured. The Town shall be provided a Certificate of Insurance showing such coverages and the insured at the beginning of each term. The Town shall receive at least five (5) days notice in advance of any cancellation of the required insurance coverage.

### **ASSIGNMENT, SUBLEASE OR LICENSE**

Lessee shall not assign or sublease the premises or any right or privilege connected therewith. Any unauthorized assignment, sublease or license to occupy shall be void and shall terminate this Lease at the option of the Lessor. The interest of Lessee in this Lease is not assignable by operation of law without the written consent of the Lessor.

### **HOLD-OVER AND DEFAULT**

At the termination of this Lease, by lapse of time or otherwise, Lessee agrees to yield up immediately possession to said Lessor, and failing to do so, to pay as liquidated damages, for the whole time such possession is withheld, the sum of One Hundred Dollars (\$100.00) per day, but the provision of this clause shall not be held as a waiver by said Lessor of any right of re-entry nor shall the receipt of said rent or any part thereof operate as a waiver of the right to forfeit said Lease and the term hereby granted for a period still unexpired, nor for any breach of any of the covenants herein.

It is expressly agreed between the parties hereto, that if default be made in the payment of the rent above reserved, or any part thereof, or any of the covenants and agreements herein contained, to be kept by Lessee, it shall be lawful for Lessor, or their successors or assigns, at any time thereafter, at the election of said Lessor, or their successors or assigns, without notice, to declare said term ended, and to re-enter said demised premises, or any parts thereof, either with or without process of law, and said Lessee, or any person or persons occupying the same, to expel, remove and put out, using such force as may be necessary so to do, and the said premises again to repossess and enjoy, as before this demise, without prejudice to any remedies which might otherwise be used for arrears of rent or preceding breach of covenants, and said Lessee further covenants and agrees, that Lessor, or their successors or assigns, shall have, at all times, the right to distrain for rent due, and shall have a valid lien upon all property of said Lessees, whether exempt by law or not, as security for the payment of the rent herein reserved.

### **ALTERATIONS AND IMPROVEMENTS**

Lessee will not do or permit any alterations of or upon any part of said demised premises except by written consent of Lessor, and all alterations and improvements to said premises shall remain for the benefit of Lessor unless as otherwise provided in said consent as aforesaid. Lessee may not install signs or any form of advertising except as provided herein.

### **INDEMNIFICATION**

Lessee agrees to indemnify and hold Lessor harmless from any and all claims, suits, actions, or damages, without limitation, against or incurred by the Town arising from the Lessee's operations at the demised premises, specifically including, but not limited to, any petroleum spills or the release of any other hazardous substance either on the demised premises, adjacent Town property, or into Chincoteague Channel.



### **COSTS OF ENFORCEMENT**

Lessee further covenants and agrees to pay and discharge all reasonable costs, attorney's fees, and expenses that shall be made and incurred by Lessor in enforcing the covenants and agreements of this Lease; and all the parties of this Lease agree that the covenants and agreements herein contained shall be binding upon, apply and inure to their respective successors and assigns.

### **NOTICES**

All notices or demands of any kind that Lessor may be required or may desire to serve on Lessee under the terms of this Lease may be served on Lessee (as an alternative to personal service) by leaving a copy of such demand or notice with the Lessee, or by mailing a copy thereof by registered or certified mail, postage prepaid, addressed to Lessee, or at other such address or addresses as may from time to time be designated by Lessee in writing to Lessor. Service shall be deemed complete at the time of leaving such notice as aforesaid or within five (5) days of the mailing of same. All notices and demands from Lessee to Lessor may be similarly served on Lessor at 6150 Community Drive, Chincoteague, Virginia 23336, or at any such other address as Lessor may from time to time designate in writing to Lessee.

WITNESS the following signature and seals:

LESSOR: TOWN OF CHINCOTEAGUE, INCORPORATED

By: \_\_\_\_\_ (SEAL)  
Robert G. Ritter, Jr.  
Its: Town Manager

LESSEE:

By: \_\_\_\_\_ (SEAL)  
Its: \_\_\_\_\_

COMMONWEALTH OF VIRGINIA, AT LARGE

COUNTY OF ACCOMACK, to-wit:

This foregoing Agreement of Lease was acknowledged before me by Robert G. Ritter Jr., Town Manager on behalf of the Town of

Chincoteague, Incorporated, this \_\_\_\_ day of May, 2007, in my jurisdiction aforesaid.

\_\_\_\_\_  
Notary Public  
My Commission expires: \_\_\_\_\_

COMMONWEALTH OF VIRGINIA, AT LARGE

COUNTY OF ACCOMACK, to-wit:

This foregoing Agreement of Lease was acknowledged before me  
by \_\_\_\_\_, on behalf of \_\_\_\_\_,  
this \_\_\_\_ day of May, 2007, in my jurisdiction aforesaid.

\_\_\_\_\_  
Notary Public  
My Commission expires: \_\_\_\_\_

3. That all bids shall be in writing, signed by the bidder, sealed and delivered to the Town Manager, who shall mark each for identification, on or before 5:00 P.M. on May 7, 2007 to be opened and read aloud at the May 7, 2007 session of the Council. Any such bid shall be for a minimum amount of \$1,200.00 per year and be accompanied by a bidder's deposit of \$1,000.00 in the form of a cashier's check, bank check, or letter of credit payable to the Town of Chincoteague to ensure the execution of the Lease by the successful bidder. At such session the Mayor may call for any additional bids, which shall be received. After the acceptance of any such additional bids, or there being no such additional bids, the bidding shall be closed.
4. At such open session or any later time as Council may determine, and after such investigation as Council may see fit, Council, after receiving the recommendations of staff, if any, may accept the highest bid from a responsible bidder and adopt this Ordinance awarding the Lease to such bidder, subject to the right of Council by a recorded majority vote to accept a lower bid from a responsible bidder and award such Lease to the lower bidder, if in its opinion there is some reason(s) affecting the interest of the Town which makes it advisable to do so, which reason(s) shall be affirmatively stated in the action adopting the Ordinance and awarding such Lease.
5. All bids shall be irrevocable for a period of thirty (30) days after the last date for the submission of bids. The Town reserves the right to negotiate with the highest responsible bidder, and further reserves the right to reject any and all bids. Council may waive any minor irregularities in any bid.

6. The cost of the advertisement provided for herein shall be reimbursed to the Town by the successful bidder to whom such Lease is awarded.
7. The form of the advertisement shall be as follows:

**AN ORDINANCE AUTHORIZING THE LEASE OF A PORTION OF  
THE TOWN DOCK OF THE TOWN OF CHINCOTEAGUE IN  
CONJUNCTION WITH THE OPERATION OF A TOUR VESSEL(S)  
AND THE SOLICITATION OF BIDS FOR SUCH LEASE**

The Town of Chincoteague intends to adopt an Ordinance awarding the Lease of a certain portion of the Town Dock to the successful bidder in conjunction with the operation of a tour vessel(s) for the 2007 and 2008 seasons in accordance with the terms and conditions of the Lease contained therein. A copy of the full text of said Ordinance is on file in the office of the Town of Chincoteague, 6150 Community Drive, Chincoteague, Virginia 23336.

The Council invites bids for the Lease proposed to be awarded in the Ordinance. All bids shall be in writing, sealed and delivered to the Town Manager on or before May 7, 2007 at 5:00 P.M. All such bids shall be for a minimum of \$1,200.00 per year and shall be accompanied by a cashier's check, bank check, or letter of credit in the amount of \$1,000.00 to ensure that the successful bidder executes said Lease. Failure to do so shall result in the forfeiture of said deposit. All bids shall be opened in the May 7, 2007 session of Council. Council shall have the right to call for any additional bids, which shall be received at the time. At such open session, or later, the Council may determine and after such investigations as Council may see fit, Council, after receiving recommendations of staff, if any, will accept the highest bid from a responsible bidder and adopt the Ordinance awarding the Lease to such bidder, subject to the right of Council by recorded majority vote to accept a lower bid from a responsible bidder and award such Lease to the lower bidder, if in its opinion there is some reason affecting the interest of the Town which makes it advisable to do so, which reason(s) shall be affirmatively stated in the motion adopting the Ordinance and awarding such lease. Council reserves the right to negotiate with the successful bidder, and further reserves the right to reject any and all bids. Council may waive any minor irregularities in any bid.

Robert G. Ritter Jr., Town Manager  
Town of Chincoteague  
By Direction of the Council

8. That the Town Manager is directed to advertise the foregoing form of advertisement for two (2) successive weeks in the Chincoteague Beacon, a newspaper circulated within the Town of Chincoteague.

AYES:

---

---

---

---

---

---

NAYS

---

---

---

---

---

---

Approved this \_\_\_\_ day of May, 2007

\_\_\_\_\_  
Mayor